

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER SMITH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Criminal Case No. 06-20529

Civil Case No. 08-11662

Honorable John Corbett O'Meara

**ORDER GRANTING GOVERNMENT'S OCTOBER 1, 2008
MOTION FOR RECONSIDERATION**

This matter came before the court on the United States' October 1, 2008 motion for reconsideration of the court's September 26, 2008 Order Denying Petitioner's Motion to Vacate, Set Aside, or Correct Sentence. No response was filed, and no oral argument was heard. LR 7.1(g)(2)(E.D. Mich. Dec. 1, 2005).

On July 14, 2008, the United States filed a response to petitioner Christopher Smith's motion filed pursuant 28 U.S.C. § 2255. In its response the government argued that the motion should be denied. The court agreed and entered an order September 26, 2008, denying Smith's motion. The government has now filed a motion for reconsideration of that order and concedes that one criminal history point was erroneously assessed against Smith. In order to correct this error, the court will order a new pre-sentence report and schedule a date for re-sentencing.

ORDER

It is hereby **ORDERED** that the court's September 26, 2008 Order Denying Petitioner's Motion to Vacate, Set Aside, or Correct Sentence is **VACATED**.

s/John Corbett O'Meara
United States District Judge

Date: October 10, 2008

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, October 10, 2008, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager